

Exhibit A

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1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NORTH CAROLINA
3 CHARLOTTE DIVISION
4

5 FS MEDICAL SUPPLIES, LLC.,)
6)
7 Plaintiff,)
8 v.) Case 3:21-cv-501-RJC-WCM
9) 3:23-cv-598-RJC-WCM
10 TANNERGAP, INC., AND TANNER)
11 PHARMA UK LIMITED,)
12 AND)
13 FS MEDICAL SUPPLIES, LLC,)
14 Plaintiff,)
15 v.)
16 TANNER PHARMA UK LIMITED,)
17 RAYMOND FAIRBANKS BOURNE;)
18 MARY EVERETT WHITEHOUSE)
19 BOURNE,)
20 Defendants.)
21 _____)

22 ROUGH DRAFT Deposition of LAIRD CAGAN,
23 VOLUME , taken on behalf of Defendants, at
24 777 South Figeroa Street, 44th Floor, Los Angeles,
25 California, commencing at TIME on Wednesday,
December 18, 2024, before Katherine Jones, CSR 10097.

1 APPEARANCES OF COUNSEL:

2

3 For PLAINTIFF:

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8

9 For DEFENDANTS:

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15 Also Present:

16 LEX M. ERWIN, ESQ.
17 DAVID JELSMA, ESQ.
18 ANITA FOSS, ESQ.
19 EMMY PERRY, ESQ.
20 FRANK MYERS, Videographer

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24

25

1 Q What was the process for obtaining an FDA
2 license?

3 A I don't remember. I filled out some
4 forms. I believe I did that early and got an FDA
5 number.

6 Q Where would the records of any FDA license
7 exist?

8 A I would have those records.

9 Q Where?

10 A All of my records are stored on my
11 computer. There may be some paper but virtually
12 everything is in the computer and I would guess
13 everything paper is on the computer (checkx).

14 Q How -- are the FS Medical records which I
15 maintain on your computer saved to a particular
16 folder or location on the computer?

17 A They may -- I believe they're all under a
18 folder -- a single perform a master folder for
19 (checkx) tangential that happens separately maybe
20 somewhere else but I don't it. Whoever's talk money
21 the background, please mute S.

22 MR. ANDERSON: (checkx).

23 THE WITNESS: Please mullet whoever's
24 talking.

25 MR. YALOWITZ: Can you check, Frank, and

1 see who's --

2 THE WITNESS: It looks like he will say
3 owe, are you talking? Please mute. There he goes.
4 Okay.

5 BY MR. ANDERSON:

6 Q When you a your FS Medical records are
7 saved on your computer, what computer?

8 A I have -- I have a Macintosh computer.

9 Q Almost all the files on hard drive of your
10 Macintosh computer?

11 A Yes.

12 Q What's the name of the folder in which the
13 FS Medical records are obtained?

14 A I believe it's FSMS.

15 Q What was the process for obtaining the Sam
16 license?

17 A I don't remember at this time. It was a
18 U.S. Government license.

19 Q Who --

20 A It was involved with -- I forgot of the
21 totality of what's involved but it was -- gave
22 access to Government contracts an other things and
23 other benefits. It's a Federal -- U.S. Federal.

24 Q Who was involved in obtaining in license?

25 A I believe I did that.

1 Q What was the process to get it done?

2 A It's an online process.

3 Q Are there any F, A medical records D FS

4 Medical business records maintained in any location

5 other than on the -- or in the folder on your

6 macintosh computer to be computer.

7 Q Well, Jim certainly has things on his

8 computer he may have things that I don't have and of

9 course we have records -- things that come up to our

10 phone by virtue of text messages and attachments but

11 those would have largely, if not completely -- well,

12 we may have received something that's on our phone

13 that I didn't open or copy to my computer.

14 Q Did FS Medical use a Google base platform

15 for else (checkx)?

16 A We had a website that we had outsourced

17 to somebody to create. Will hooks was involved in

18 helping me fault together introduce me to a website

19 designer who did that will work. And then later on,

20 I think, around probably October of 2020, charms

21 roach took over that responsibility and I believe he

22 may have moved it over to Google. It was being --

23 it was initially a Wix website this is not mill

24 strength, I outsource that type of work. And I'm

25 not I think, Wix has its open system and I'm not

1 sure who backs up that, it might be Yahoo!, but
2 charred wanted to move to to Google for some reason,
3 I don't know why, but he did that.

4 Q Did FS Medical use a Google base platform
5 for its business documentation?

6 A No, other than just the website and we had
7 email addresses that started on Wix and charms moved
8 it over and he did what he did. I'm not sure what
9 he did exactly. My understanding is that it was a
10 Google -- he moved it to Google.

11 Q Did FS Medical create user accounts with
12 the at FSMedicalSupplies.com email doing to conduct
13 its business (checkx)?

14 A We did have email address at
15 FSMedicalSupplies.com owe mail address dollars an
16 there were people that used that.

17 Q How were those email addressed created?

18 A They were created on Wix account an they
19 were given to our sales team, people that were
20 commissioned salespeople and they could use that as
21 they like.

22 Q What was the process for creating the Wix
23 account?

24 A The person that we hired to do the Wix
25 account created those.

1 Q Who did you hire?

2 A I don't remember the name, it was a woman
3 back in or around April of 202 and we used her, shy
4 recreated it, I'm not sure we used her again to do
5 anything. Maybe I called her once..

6 Q Are the records relating to the creation
7 of the account maintained on your computer?

8 A Not necessarily because she created the
9 account. So we used it, she created the emails and
10 if I needed a change which we didn't do much changes
11 then, she would handle it I just let her know, hey,
12 make this change." And I didn't pay a lot of the
13 attention to how that was done or what was done or
14 just I could look up online and see it was online.

15 Q Where are the documents describing the
16 services that you purchased in that regard
17 maintained?

18 A You know, all of that is an online system
19 and I would guess that I had the cost on my credit
20 card, either any personal or -- probably my personal
21 card at that time just for ease quick access
22 (checkx). And other wise it was a website it was
23 the Wix -- it was our website, it was just on Wix.

24 Q Did anyone assist Mr. Roach (Mark) in
25 transferring the (checkx) to the book the platform?

1 A I had to get the password soar that we
2 could transfer it and when Mr. Roach said he wanted
3 to help on the website and thought he codo good
4 things with it so I said okay. So we got the pass
5 board kick check gave it to him and from Wix I think
6 to Google and then it was involved in adding
7 pictures an making changes and doing some website
8 stub.

9 Q What steps were taken by Mr. Roach so set
10 up the going the user licenses for the FSMS
11 accounts?

12 A The emails.

13 Q The user licenses?

14 A Well, if what you mean is an admin and who
15 had access, he would have done that and I don't
16 remember exactly what was done. As I said, it's not
17 my expertise or focus I didn't pay a lot of
18 attention to the website an really go on the website
19 to do things I just asked him to make some changes,
20 he recommended things he made changes I looked at it
21 online and that's the exhibit of the what I did on
22 the website for the most part.

23 Q In order to be prepared as the
24 representative of FS Medical to speak to that topic
25 today, what did you do to obtain information as to

1 the accepted that Mr. Roach took to set up the going
2 the user licenses for the FSMS accounts?

3 A I don't know what accepted steps he took,
4 that's what he took. I wouldn't have records on
5 that, he was involved in the -- with the Direct
6 interaction on the website.

7 Q In preparing to serve as FS Medical's
8 designee on these issues, did you conduct any
9 investigation to determine what stepped were taken?

10 A No.

11 Q In order to serve as the designee as to
12 this topic today did you undertake any investigation
13 to determine the administrative settings applied
14 when the FSMS account user licenses were created?

15 A No --

16 MR. YALOWITZ: Objection. Form.

17 THE WITNESS: And I don't believe I have
18 any records of that as we mentioned Mr. Roach
19 handled that, that was all done online so there
20 wouldn't be records that I would have access to.

21 BY MR. ANDERSON:

22 Q In approximately March of 2021, did you
23 contact charms roach regarding access (checkx) user
24 licenses for FSMS email accounts to yourself?

25 A I believe there was some email

1 communication back and forth with Mr. Roach and I to
2 do that.

3 Q Did you provide you the information needed
4 to complete that administrative transfer?

5 A I don't remember because after that point
6 in time we didn't -- we didn't trial really use the
7 website and as I mentioned before I didn't have real
8 strong focus on that or interest or background in
9 that and Charles was very interested not website and
10 we weren't very interested. We worked with him for
11 a while and we transferred it back I think I had
12 administrative rights at that time, but we had some
13 communications about moving things and in the last
14 communications I asked him something, some questions
15 and was waiting for his response and he never
16 responded so I think no action was taken after that.

17 Q At some point after March of 2021, did you
18 also contact Mr. Roach in an attempt to the obtain
19 axites e- sets to the FSMS going 8 platform
20 (checkx)?

21 A I don't have a recollection of that.

22 Q In order to be prepared adequately to
23 speak on FSMS behalf as the Rule 30(b)(6) desing
24 matron this topic, what did you do to educate
25 yourself with regard to FSMS Google platform?

1 MR. YALOWITZ: Objection to form.

2 THE WITNESS: So at some point along the
3 way, we lost access to the website, and so I think
4 it was -- one of the last things I asked charred was
5 about transferring payment and when he never
6 addressed that, I think that -- I think it was on
7 his credit card I think he actually canceled studies
8 credit card and I was never a her letter today put
9 that back on and we never really used to web and I
10 think it just got canceled so I think there's
11 (checkx) ac selling to the website, at some point it
12 just cancels.

13 Q (By Mr. Anderson) Whether and in what
14 manner has FSMS or anyone on its behalf contacted
15 Google to obtain copies of the data at that had been
16 hosted on FSMS as Google platform?

17 MR. YALOWITZ: Hold on. Why is it that
18 asking about work product (why isn't that (checkx)).

19 MR. ANDERSON: Yen that it is.

20 MR. YALOWITZ: All right, I'm gonna
21 instruct not to answer on the basis of work product
22 (no answer).

23 BY MR. ANDERSON:

24 Q Did FSMS ever contact Google to on
25 continue copies of the data -- of the FSMS data at

1 that had been stored on M SMS Google platform?

2 MR. YALOWITZ: I think you just asked that
3 question and I instructed him not to answer.

4 MR. ANDERSON: I'm asking -- be clear on
5 what your canning asking him did they directly do
6 that (checkx) any work product in the question as
7 phrased.

8 MR. YALOWITZ: Okay, I didn't understand
9 the question. On the basis of -- can you just ask a
10 narrower question? I think you were trying to ask a
11 narrower question but it's not clear.

12 BY MR. ANDERSON:

13 Q Did FSMS ever contact Google directly to
14 obtain copies of the FSMS data that had been hosted
15 on Google platform?

16 MR. YALOWITZ: Did you -- did you, Laired,
17 ever contact Google.

18 BY MR. ANDERSON:

19 Q Did FS Medical, the the designee for FS
20 Medical?

21 A (checkx) there are people that do things
22 that I don't know about. But I was largely in
23 charge of the website. There would have been
24 (checkx) it would have been other than will
25 initially and he's no longer involved and then

1 charms and then -R calls water involved then it
2 would have been me (Mark) I did not contact Google I
3 did recognize at some point I don't know when that
4 it wasn't working and I tried to go online to find
5 out and I got frust rafted an just didn't do
6 anything. I wouldn't know who to contact or what to
7 do we didn't really need the website and so it just
8 -- that was it. And I didn't want to deal with
9 doing that again.

10 Q So let me make sure -- ask it a different
11 way. Today you're here specifically as eye Rule
12 30(b)(6) designee, you understand that; correct?

13 A Yes.

14 Q And have you been made aware that it's why
15 the obligation not to just testify what you know
16 personally (checkx) but but SR-Z done a sufficient
17 investigation to speak to the information available
18 to FSMS as an organization?

19 A Are you ask if I understand that.

20 A Yes, sir.

21 A Yes, I do.

22 Q What did you do to determine if anyone at
23 FS M A had's contacted Google directly to obtain
24 copies of the FSMS data that had been stored on the
25 Google platform?

1 A So it is my strong belief that Jim Mao
2 would not vat contacted Google with regard to the
3 website and Charles was no longer involved, will was
4 no longer involved so I was the only person involved
5 in the website and I wasn't really interested so I
6 wasn't really doing anything. At some point as I
7 testified a minute ago, I found out that the website
8 was not active. I tried to see what I could do
9 myself. I was not successful. Dill not contact
10 Google and it would be my strong opinion that there
11 was nobody else that would have done that unless
12 somehow my lawyers tried to do it, but I don't know
13 if they would have even done that. But as far as I
14 know there was no access ability.

15 Q Did you -- did FSMS determine that had had
16 dost will access to its Google platform at some
17 point after it had instructed its lawyers to issue a
18 demand letter to Tanner?

19 MR. YALOWITZ: I'm gonna object to the
20 form of the question. I don't know what you mean by
21 Google platform."

22 MR. ANDERSON: That's fine.

23 THE WITNESS: Are you referring to the
24 website sites being on the Google system -- the
25 Google website system is that what you're referring

1 to for our website.

2 BY MR. ANDERSON:

3 Q I'm referring to the Google platform, but
4 if you -- if your reference is just to the website,
5 I'll ask you that. When did you first determine
6 that you had lost access to your website?

7 A Okay, I don't remember.

8 Q When did you first determine that FS
9 Medical had lost access to the emails on the
10 FSMedicalSupplies.com account?

11 MR. YALOWITZ: Object to form.

12 THE WITNESS: I don't know when we --
13 again, the same reason, I don't know. But I would
14 tell you that I used and had a Laired at FS
15 medicals.com email address (checkx) that I used.
16 All of those emails are stored on my computer an
17 anybody that responded to that came back to me and
18 anything that was sent to me is stored on my
19 computer because that stores all emails because
20 those emails were forwarded to me, they go on my
21 computer, and Jim did to the use FS Medical
22 Supplies' email account. And so what I can say is
23 that any email information that was relevant to this
24 case an Tanner, would only have been done through me
25 and Jim because none of the other people were

1 involved in this case and they would have had no
2 reason to have information to anyone (checkx) regard
3 tag case regard tag email address. So to the extent
4 there was information lost on the
5 FSMedicalSupplies.com emails, those would have been
6 commissioned salespeople working on other deals and
7 it would have been information on other deals and
8 nobody -- none of those people were involved in any
9 way with the Tanner or (checkx) this project.

10 BY MR. ANDERSON:

11 Q Some of those people received
12 communications from you, arched/or Jim Mao recording
13 on information regarding Tanner and the UK
14 transactions. True?

15 A I believe there was one email in that will
16 regard that I can remember 6789 I don't know if Jim
17 did that. I does -- I know I did one email.

18 Q Some of these people communicated amongst
19 themselves relating to information regarding the
20 Tanner UK transaction; correct?

21 A I don't know.

22 MR. YALOWITZ: Object to form.

23 THE WITNESS: There's also --

24 MR. YALOWITZ: Object to form because he
25 said he had one email that's not some of those

1 people. Object to form.

2 THE WITNESS: Well one email to several
3 people.

4 BY MR. ANDERSON:

5 Q From you?

6 A From me.

7 Q My question is those people emails between
8 themselves; correct?

9 A And necessity wouldn't vat had an FS
10 Medical flies email access at that time (checkx).

11 Q Which employees -- or which -- (checkx)
12 employees -- which contractors had FS medical
13 supplies.com email addresses created?

14 A I don't have that liftoff hand but I think
15 that you have that licht because we listed those
16 people.

17 Q Which group email address dollars were
18 created using the FSMedicalSupplies.com email
19 (checkx)?

20 A Which group email? What do you mean by
21 group email.

22 Q Group email al dress?

23 A We don't have group email addresses.

24 Q Isn't it true while FS M A Google platform
25 was maintained, it stored emails sent to and from

1 those FS Medical supplies.com email domains?

2 A Aiming *T the beginning of that you said
3 where was that stored, I missed the beginning
4 (checkx).

5 Q The going the platform?

6 A Ongoing the platform, yes, I assume that
7 goggle adds part of being a website would have trap
8 you'd those emails I'll addresses an had the
9 information on those emails.

10 Q What steps did FS Medical take to preserve
11 the emails maintained on the Google platform that
12 were sent to and from the FSMedicalSupplies.com
13 email domains?

14 MR. YALOWITZ: Objection. Instruct not
15 you not to answer, work product.

16 (no answer).

17 BY MR. ANDERSON:

18 Q When was the last payment made to Google
19 to host the FSMS Google platform?

20 A I don't know that number and as I
21 mentioned, I think it's on my personal credit card.

22 Q And in preparing to respond to the
23 30(b)(6) topics for today, what steps did you take
24 to investigate the date on which the access to the
25 Google platform was lost?

1 MR. YALOWITZ: Objection. Form.

2 THE WITNESS: I didn't contemplate that
3 question and did not investigate it.

4 BY MR. ANDERSON:

5 Q Did you not go look to your personal
6 charge doored determine for example whether you
7 stopped paying to host -- foregoing will to host of
8 the M S medical supplies.com data before or after
9 March of 2021?

10 A I did not go to check it.

11 Q As the designee for FS Medical to speak on
12 the topics within the 30(b)(6) notice, can you
13 identify the date when FSMS lost access to the
14 Google platform?

15 A (checkx).

16 Q As the representative for FSMS on this
17 topic, can you identify what, if any of the FSMS
18 data can be accessed from the Google platform?

19 A I'm sorry the beginning of the question
20 was do we know if it can be accessioned or if check
21 you have to say that again.

22 Q What have you done as designee to
23 determine whether it can be accessed?

24 A As I said, at some point we determined
25 that the website access was not available and I

1 don't know the date of that, but there's not -- I'm
2 not aware of anything I can do to get that the data
3 back, other than the emails that I sent or received
4 or saved on my computer.

5 Q Did FSMS take any steps at any time to
6 preserve any email data from its Google platform for
7 this litigation?

8 MR. YALOWITZ: Objection. Instruction not
9 to answer. Work product.

10 BY MR. ANDERSON:

11 Q Did FSMS collect any email data from its
12 going the platform for this litigation into
13 objection. Instruction not to answer. Work
14 product?

15 BY MR. ANDERSON:

16 Q Did FSMS have a LinkedIn page?

17 A No.

18 Q Did FSMS have a Dropbox account?

19 A No.

20 Q How many 1099 contractors did FS Medical
21 have?

22 A I don't remember exactly but I'm gonna say
23 around 15.

24 Q Did you maintain records -- did FS Medical
25 maintain records of its 1099 contract?